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17 GFSI, INC. d/b/a GEAR FOR SPORTS, INC.

18
19 **IN THE UNITED STATES DISTRICT COURT**
20 **NORTHERN DISTRICT OF CALIFORNIA**
21 **SAN JOSE DIVISION**

22 ROBERT TRENT JONES II, INC., and
23 ROBERT TRENT JONES LICENSING
24 GROUP, LLC,

25 Plaintiffs,

26 v.

27 GFSI, INC. d/b/a GEAR FOR SPORTS, INC.,

28 Defendant.

Case No. C07-04913-EDL

**DEFENDANT'S MOTION TO
VACATE ORDER TO MEDIATE**

JUDGE SAMUEL CONTI

**HEARING DATE:
MARCH 21, 2008
10:00 A.M.
COURTROOM 1**

1 Pursuant to Federal Rules of Civil Procedure 7, and N.D. California Local
2 Rules 7.1 and 7.2, Defendant GFSI, Inc., d/b/a Gear For Sports, Inc. (“GFSI”) submits the
3 following Motion to Quash the Order to Mediate in this Case, and states in support of such
4 Motion the following: Plaintiffs Robert Trent Jones II, Inc., and Robert Trent Jones
5 Licensing Group, LLC (collectively, “Plaintiffs”), and states in support of such Motion the
6 following:

7 1. Plaintiffs Robert Trent Jones II, Inc., and Robert Trent Jones
8 Licensing Group, LLC (collectively, “Plaintiffs”) filed their Complaint in this matter on
9 September 21, 2007, and served GFSI on October 12, 2007. GFSI filed its answer on
10 November 1, 2007.

11 2. An Order to Mediate was filed as Document Number 32 in this case,
12 on December 19, 2007.

13 3. Plaintiffs filed a Motion for a Preliminary Injunction on December 3,
14 2007, for which a hearing was held on January 24, 2008.

15 4. At the hearing, Judge Conti suggested that this may be a case in which
16 there would be no likely advantage to mediation, and he indicated that he would be willing
17 to grant a Motion to Vacate the Order to Mediate if the parties desired.

18 5. The parties have attempted to resolve this dispute amongst themselves
19 and GFSI expects those discussions to continue. However, GFSI does not believe that
20 mediation will be helpful in this case, as both parties are well-represented, non-emotional
21 and fully understand the risks and potential advantages of continued litigation as well as
22 their potential liabilities and costs.

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6. GFSI believes that requiring mediation in this case will merely add to its costs and will not materially advance the likelihood of settlement.

7. GFSI therefore requests that this Court vacate its Order of Mediation.

A proposed Order is attached.

8. Pursuant to N.D. Cal. Civil L.R. 7.1(b), GFSI requests that this Motion be ruled on without oral argument.

CONCLUSION

For the reasons outlined above, GFSI requests that this Court grant its Motion to Vacate the Order of Mediation.

Dated: February 26, 2008

Respectfully submitted,
BRYAN CAVE LLP
Jennifer A. Jackson
Robert J. Hoffman
Tarun Mehta

By: s/Tarun Mehta
Tarun Mehta

Attorneys for Defendant
GFSI, INC. d/b/a GEAR FOR SPORTS, INC.

PROOF OF SERVICE

I am employed in the County of Jackson, State of Missouri. I am over the age of 18 and not a party to the within action. My business address is 1200 Main Street, Suite 3500, Kansas City, MO 64105.

On February 26, 2008, I served DEFENDANT'S MOTION TO VACATE ORDER TO MEDIATE, on each interested party in this action, as follows:

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(BY MAIL) I placed a true copy of the foregoing document in a sealed envelope addressed to each interested party as set forth above. I placed each such envelope, with postage thereon fully prepaid, for collection and mailing at Bryan Cave LLP, Kansas City, Missouri. I am readily familiar with Bryan Cave LLP's practice for collection and processing of correspondence for mailing with the United States Postal Service. Under that practice, the correspondence would be deposited in the United States Postal Service on that same day in the ordinary course of business.

(BY E-MAIL) I caused a true copy of the foregoing document to be served by e-mail transmission at the time shown on each transmission, to each interested party at the e-mail address shown above. Each transmission was reported as complete and without error.

Executed on February 15, 2008, at Kansas City, Missouri.

(FEDERAL ONLY) I declare that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

I declare under penalty of perjury under the laws of the United States of America and the State of Missouri that the foregoing is true and correct.

/s/ Lisa Deacy
Lisa Deacy